

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

HENRY NARANJO

CASE NO.: 00-6022-CIV-LENARD  
MAGISTRATE JUDGE TURNOFF

Plaintiff,

vs.

STEPHEN BYRON SMITH, and  
PALMER JOHNSON, INC.

Defendants,

\_\_\_\_\_  
PALMER JOHNSON, INC.

Third Party Plaintiff,

vs.

TOM FEXAS YACHT DESIGN, INC.

Third-Party Defendant.  
\_\_\_\_\_

01 SEP 19 PM 3:56  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI  
[Signature]

**MOTION TO STRIKE DEFENDANT, PALMER JOHNSON, INC.'S,  
SECOND AMENDED EXPERT WITNESS DISCLOSURE**

COMES NOW the Plaintiff, HENRY NARANJO, by and through undersigned counsel,  
and files this Motion to Strike Defendant, PALMER JOHNSON, INC.'S, Second Amended  
Expert Witness Disclosure and states as follows:

1. On or about September 7, 2001, Defendant, PALMER JOHNSON, INC. (hereinafter  
PALMER JOHNSON), filed a Second Amended Expert Witness Disclosure and added  
Thomas J. Goldschmidt, M.D., as a psychiatrist, Peter Rimmel, a marine chemist, and  
Mark Tortura, an employee of Bradford Marine, Inc., as expert witnesses. A copy of

134 [Signature]

CASE NO.: 00-6022-CIV-LENARD  
MAGISTRATE JUDGE TURNOFF

Defendant, PALMER JOHNSON'S, Second Amended Expert Witness Disclosure is attached hereto as Exhibit "A."

2. The deadline for Defendants' expert witness disclosure expired on June 1, 2001, prior to the filing of PALMER JOHNSON'S Second Amended Expert Witness Disclosure.
3. Dr. Goldschmidt is a psychiatrist, and the Plaintiff did not treat with a psychiatrist as a result of the injuries he sustained in the explosion that is the subject of this case, nor has the Plaintiff listed a psychiatrist as a witness. The Plaintiff did treat with a psychologist, Michael E. Hendrickson, Ph.D., and the psychologist is listed as a witness. The Plaintiff is prejudiced by the listing of Dr. Goldschmidt as a psychiatric and neuropsychiatric expert after the discovery cutoff.
4. Defendant, PALMER JOHNSON, lists Lee Swanger, PhD. and/or David Wills, PhD. as alternative witnesses to testify as to applicable engineering and manufacturing standards. The Defendant should only be allowed to list one witness to testify on these subjects and the Plaintiff is prejudiced because the Defendant has yet to designate one witness or the other.
5. Defendant, PALMER JOHNSON, has also listed Peter Rimmel and Mark Tortura as expert witnesses. Both of these witnesses were involved with the yacht before and after the explosion took place, and have been deposed by the parties as fact witnesses. To designate these two fact witnesses as experts after the discovery cutoff is highly prejudicial to the Plaintiff. The Plaintiff agrees that Mr. Rimmel and Mr. Tortura have been contemplated to testify as fact witnesses, but not to present expert testimony.

CASE NO.: 00-6022-CIV-LENARD  
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6. Further, Plaintiff's counsel has contacted Mr. Rimmel and asked if the Defendant, PALMER JOHNSON, had retained his services as an expert in this matter. Mr.

Rimmel's response to Plaintiff's counsel was "absolutely not."

WHEREFORE, the Plaintiff, HENRY NARANJO, respectfully requests this Honorable Court to enter an order granting this Motion and striking Dr. Goldschmidt, Peter Rimmel, and Mark Tortura, from the Defendant, PALMER JOHNSON'S, expert witness list and to designate one witness to testify concerning applicable engineering and manufacturing standards.

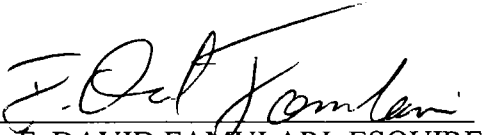
**CERTIFICATE OF SERVICE**

**IT IS HEREBY CERTIFIED** that a true and correct copy of the foregoing MOTION TO STRIKE DEFENDANT, PALMER JOHNSON, INC.'S, SECOND AMENDED EXPERT WITNESS DISCLOSURE was mailed on this **13<sup>th</sup> day of September, 2001**, to the parties listed on the attached List of Service.

Respectfully submitted,

BLANCK & PERRY, P.A.  
Co-Counsel for Plaintiff  
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Tel: 305/663-0177; Fax: 305/663-0146

BY:

  
F. DAVID FAMULARI, ESQUIRE  
FLA. BAR NO. 0860506

CASE NO.: 00-6022-CIV-LENARD  
MAGISTRATE JUDGE TURNOFF

**LIST OF SERVICE**

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**PLAINTIFF'S  
EXHIBIT "A"**

LFV:FJS/lks  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 00-6022-CIV-LENARD  
Magistrate Judge Turnoff

HENRY NARANJO and  
MARLENE RAMIREZ,

Plaintiffs,

v.

STEPHEN BYRON SMITH, and  
PALMER JOHNSON, INC.,

Defendants.

\_\_\_\_\_/   
PALMER JOHNSON, INC.,

Third Party Plaintiff,

v.

TOM FEXAS YACHT DESIGN, INC.,

Defendant.

\_\_\_\_\_/

**DEFENDANT'S SECOND AMENED EXPERT WITNESS DISCLOSURE**

COMES NOW the Defendant, PALMER JOHNSON, INC., by and through undersigned counsel, and pursuant to the Court's Trial Order, and files this its Second Amended Expert Witness Disclosure adds numbers 6, 10, and 11:

- 1) Dave Jones  
D. E. Jones & Associates, Inc.  
607 Apalachee Circle, NE  
St. Petersburg, Florida 33702

Mr. Jones is expected to testify that the vessel was designed pursuant to the applicable design standards of Naval Architecture.

- 2) Lee Swanger, Ph.D. and/or Dave Wills, Ph.D.

ExPonent/Failure Analysis  
4101 Southwest 71st Avenue  
Miami, Florida 33155

Dr. Swanger and/or Dr. Wills are expected to testify that the vessel *Souvenir* conformed to the applicable engineering and manufacturing standards.

- 3) Manfred H. Ledford, Ph.D.  
Department of Finance  
University of Miami  
P.O. Box 248094  
Coral Gables, Florida 33124

Dr. Ledford is expected to testify regarding the Plaintiffs' economic losses as a result of the incident.

- 4) Theodore S. Bilski, C.D.M.S., M.B.A.  
708 Kingston Court  
Apollo Beach, FL 33572

Mr. Bilski is expected to testify concerning the Plaintiffs' vocational potential and present/future earning capacity.

- 5) Jay Stein, M.D.  
9699 NE 2nd Avenue  
Miami Shores, Florida 33138  
IME Orthopedist

Dr. Stein is expected to testify concerning the Plaintiffs' Orthopedic condition.

- 6) Thomas J. Goldschmidt, M.D.  
1801 University Drive, Suite 209  
Coral Springs, Florida 33071  
IME Psychiatrist

Dr. Goldschmidt is expected to testify concerning the Plaintiffs' neuropsychiatric and psychiatric condition.

- 7) Alan M. Wagshul, M.D.  
7330 SW 62nd Place  
Suite 310  
South Miami, Florida 33143

IME Neurologist

Dr. Wagshul is expected to testify concerning the Plaintiffs' neurological condition.

- 8) Guillermo Pasarin, M.D.  
4900 West Oakland Park Blvd., Suite 105  
Fort Lauderdale, Florida 33313

Dr. Pasarin is expected to testify concerning the Plaintiffs' surgical residuals and condition, and whether any future neurosurgery may be necessary.

- 9) Bryce Epstein, M.D.  
21000 NE 28th Avenue  
Suite 104  
Aventura, FL 33180

Dr. Epstein is expected to testify concerning the Plaintiff's physical condition based from a psychiatrist's point of view.

- 10) Peter Rimmel  
Marine Chemical & Testing Co., Inc.  
3701 N.W. 94th Avenue  
Hollywood, FL 33024

Mr. Rimmel previously testified concerning his expertise in Marine Chemistry and his opinions during his deposition herein.

- 11) Mark Tortura  
c/o Bradford Marine  
3051 State Road 84  
Fort Lauderdale, FL 33312

Mr. Tortura previously testified concerning his expertise in welding and his opinions during his deposition herein.


### **CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the foregoing motion has been furnished by mail this 7th day of September, 2001 to: **Manuel Valdes, Esquire**, Law Offices of Manuel Valdes, Attorneys for Plaintiffs, 910 Madrid Street, Coral Gables,

Florida 33134; **F. David Famulari, Esquire**, Co-Counsel for Plaintiffs, Blanck & Perry, P.A., 5730 SW 74th St., Suite 700, Miami, FL 33143; **John D. Kallen, Esquire**, Badiak, Will & Kallen, Attorneys for Stephen Byron Smith, 17071 West Dixie Highway, North Miami Beach, Florida 33160; **Joseph L. Mannikko, Esquire**, Mannikko & Baris, P.A., 870 SW Martin Downs Blvd., Suite 1, Palm City, Florida 34990, and **David L. Weber, Esquire**, Pinkert Law Firm LLP, 454 Kentucky Street, P.O. Box 89, Sturgeon Bay, WI 54235-0089.

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By: \_\_\_\_\_

  
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